

Remarks

Claims 1-14 have been rewritten as Claims 15-26. Applicants submit that the new claims present no new matter and respectfully request entry thereof.

Election.

The outstanding Office Action required Applicants to elect a single group of claims, the Office Action stating that Claims 1-14 were drawn to eight patentably distinct inventions. Applicants respectfully disagree with this restriction. Applicants submit that requiring the Applicants to pursue their invention in more than eight separate applications (in view of the additional restriction requirement discussed below) is unreasonably onerous to the Applicants and is contrary to the goal of the patent system in that it will discourage applicants from pursuing applications directed to nucleotide sequences in view of the USPTO's burdensome restriction practice as applied to technologies involving nucleotide sequences.

Nonetheless, in compliance with the restriction requirement, Applicants elect with traverse the claims of Group 1 (methods, oligonucleotides and primers for detecting BKRF1/EBNA and BARF1). Claim 1 currently also recites detection of LMP-2. Claim 1 is directed to a two-step process; the first step (detecting BKRF1/EBNA or LMP-2) is a "general" step to determine the presence of EBV infected cells. The second step (detection of BARF1) determines the specific EBV associated disease. Applicants respectfully submit that it would not be an undue burden to concurrently search the LMP-2 sequences in addition to the elected BKRF1/EBNA and BARF1 sequences, and would lessen the burden to Applicants by reducing the number of divisional applications that Applicants must file in the future. If the Examiner disagrees, Applicants have elected the Claims of Group 1 (detection of BKRF1 and BARF1).

The Office Action further requires that Applicants elect a single oligonucleotide and a single oligonucleotide pair. Again, Applicants

respectfully disagree with this restriction requirement, as the burden to Applicants far outweighs the burden to the Examiner in examining multiple sequences. The Office Action states that Applicants must "elect a single oligonucleotide and a single oligonucleotide pair, corresponding to the invention recited above." (Office Action, sentence spanning pages 3-4). Applicants are somewhat uncertain whether they may elect one oligonucleotide and one primer pair for each of BKRF1 and BARF1, or whether only one oligonucleotide and one primer pair may be elected altogether. As the "invention recited above" is directed to both BKRF1 and BARF1, Applicants believe that the former interpretation was intended. Accordingly, Applicants elect with traverse the BKRF1 reading frame spanning nucleotides 107950 - 109872 of EBNA-1, and the BARF1 reading frame spanning nucleotides 165504 - 166166, as recited by Claim 19.

With respect to electing a pair of oligonucleotides, Applicants elect with traverse the pair of SEQ ID NO:2 and SEQ ID NO:3 (BKRF1/EBNA) and SEQ ID NO:23 and SEQ ID NO:24 (BARF1).

If Applicants are incorrect in their interpretation, then the oligonucleotide corresponding to the BARF1 reading frame spanning nucleotides 165504 - 166166 and the oligonucleotide pair of SEQ ID NO:23 and SEQ ID NO:24 are elected. However, Applicants note that both BARF1 and BKRF1 sequences will need to be searched and examined with respect to Claim 15; accordingly, Applicants submit it will not be more burdensome to search and examine both oligonucleotides and oligonucleotide pairs.

Moreover, with respect to Claims 20, 24 and 26, which ultimately depend from Claim 19, Applicants submit that although these claims recite multiple SEQ ID NO and a number of non-elected SEQ ID NO (SEQ ID NO:1, 4, 5, 22, 25 and 26), it would not be an undue burden to examine these sequences concurrently with the sequences of Claim 19. First, once the sequences of Claim 19 have been found to be novel and unobvious, it follows that the sequences of dependent Claims 20, 24 and 26 are also novel and unobvious. Second, the specific SEQ ID NO of Claims 20, 24 and 26 are

In re: Vervoort et al.
Serial No.: 09/623,329
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Page 7 of 7

found within the larger oligonucleotides of Claim 19 and require no additional search or examination beyond Claim 19.

Accordingly, Applicants submit that Claims 15-26 are in condition for substantive examination, which action is respectfully requested.

Respectfully submitted,



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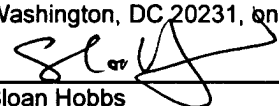


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